

EXHIBIT M

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JAMES JIRAK AND ROBERT PEDERSEN,

Plaintiff,

vs.

No. 07 C 3626

ABBOTT LABORATORIES, INC.,

Defendant.

VIDEOTAPE

DEPOSITION OF: TAMARA BENTON

DATE: September 19, 2009

TIME: 9:05 a.m.

LOCATION: Renaissance Hotel SouthPark
5501 Carnegie Boulevard
Charlotte, North Carolina

TAKEN BY: Counsel for the Defendant

REPORTED BY: CINDY A. HAYDEN, RMR, CRR

VIDEOGRAPHER: WAYNE REED

1 record every call that you made with a doctor into
2 these computers?

3 A. Yes. Yes.

4 Q. Okay. So regardless of whether or not
5 you left samples with that doctor?

6 A. Yes, you had to document if you were
7 there.

8 Q. And then if you look at the second
9 paragraph of the job description, I think it's the
10 third sentence, it starts with establishes account
11 plans based on customer needs and business
12 priorities; do you see that?

13 A. Um-hum.

14 Q. Did you establish plans based on
15 customer needs and business priorities?

16 MR. LIANG: I'm going to object as
17 vague and ambiguous.

18 A. Well, you establish those plans based
19 on the information that Abbott gave us.

20 Q. Okay. What were in these plans?

21 A. Every week we had a snapshot and it
22 gave the physicians' writing habits, so we could
23 look at that and see what their decile was which
24 meant how many patients they would see in a week.
25 It gave like an average, so if they were a high

1 cholesterol writer and they were writing 1,000
2 prescriptions a week for a cholesterol drug, then
3 that doctor is going to be at the top of the
4 priority list as far as you need to see this doctor
5 if you're promoting a cholesterol product. He may
6 be a ten, he may be a nine, and the same with each
7 drug. So with your antibiotics it would be the
8 same thing. With your pediatrics, they'd be either
9 a -- you know, anywhere from a two to really a ten.
10 And based on the information Abbott gave us, that's
11 how they told us to do the marketing plan and how
12 often to see these physicians.

13 Q. Okay. So you would look at these
14 reports that Abbott provided about the writing
15 habits of your doctors in your territory and then
16 you would then use that information to create some
17 sort of plan for them?

18 A. Yes.

19 Q. Okay.

20 MR. LIANG: Object as misstates her
21 testimony.

22 BY MS. KOH:

23 Q. So would you decide who you're going to
24 call on based on -- or how frequently you're going
25 to call on a particular doctor based on their

1 writing habits?

2 A. Yes.

3 Q. The next sentence says, establishes
4 method for monitoring progress to goals. Did you
5 establish a method to monitor your progress?

6 A. Abbott monitored basically everything
7 we did. They would give us -- I mean, I would get
8 weekly updates and graphs.

9 Q. What were in those weekly updates?

10 A. How often I called on the physicians
11 and, again, the same documents on how -- their
12 writing habits, what their writing habits were on
13 each particular drug.

14 Q. Okay. So you would be able to see if
15 those prescriptions increased, for example, in a
16 given week?

17 A. Um-hum. Yes.

18 (BENTON EXH. 5, PRIMARY CARE SALES
19 REPRESENTATIVE JOB DESCRIPTION, was marked for
20 identification.)

21 BY MS. KOH:

22 Q. The court reporter has handed you what
23 has been marked as Exhibit 5. Can you please
24 identify this document for the record?

25 A. Primary care sales specialist job

1 A. There's -- like Tricor I had about ten
2 different detail pieces. So they all would be
3 different. It could have someone on the front
4 cover with the description of the drug and then
5 you'd open it up and it would talk over the side
6 effects of the drug, the patient type that the drug
7 was good for and how you can prescribe it, the
8 shape of the pill. They were all different.

9 Q. Okay. Were these detail pieces
10 something that you could use during your visits
11 with doctors?

12 A. We had to use them.

13 Q. Okay. And you mentioned that there
14 were about ten detail pieces for Tricor?

15 A. Yeah, there was about ten.

16 Q. How did you decide which detail piece
17 to use with a particular doctor?

18 A. Well, I think it depended on how many
19 times you had seen him, and they changed
20 periodically. About every month to every two
21 months we would get new detail pieces.

22 Q. So would those new detail pieces
23 replace the old ones that you had?

24 A. Some would and some you would -- you
25 would keep.

1 Q. Okay. Did you make the decision in
2 terms of which detail piece to use with a
3 particular doctor?

4 A. No. They would tell us to use this
5 detail piece during this time and different months
6 they would want you to talk about different parts
7 of that drug. So it may be they want you to talk
8 about the metabolic Mike, so they would want you to
9 use that detail piece, and then they would want you
10 to back it up with a clinical piece.

11 Q. So they would always tell you -- and by
12 they you mean Abbott?

13 A. Abbott, manager. I mean, it would
14 depend on your manager and what they told you.

15 Q. Okay. So your manager would advise on
16 which detail piece he thought you should use for
17 all of your doctors during that time period?

18 A. Not all of them.

19 Q. Okay.

20 A. I mean, it would vary based on how --
21 how many times you had seen the physician and how
22 far along you had advised him on the product and
23 where his knowledge base was on the product.

24 Q. How would you determine where that
25 doctor was on that product?

1 to use your hands, you know, different ways to work
2 better with a particular type of personality, like
3 Myers-Briggs training kind of I think to know --
4 but it wasn't. It was I think their own training,
5 and they used my personality as well so I could --
6 I would know how to adapt to certain personalities.

7 Q. Okay. So you would learn about what
8 personality type you were?

9 A. Um-hum.

10 Q. And then how you could use your
11 personality type to interact with different
12 personality types of doctors?

13 A. Yes.

14 Q. Did each of your drugs have a core
15 message?

16 A. Yes.

17 Q. And what is a core message?

18 A. It's the message that you want to
19 repeat over and over and over.

20 Q. Now, is a core message like just a few
21 short sentences or -- I'm trying to understand what
22 exactly it would look like, I guess.

23 A. A core message would be like Tricor you
24 only have to take one time a day and you can take
25 it in the morning, evening or afternoon.

1 Q. So that would be a core message, okay,
2 just really short and sweet like that?

3 A. Really short and sweet, and you would
4 say that every single time.

5 Q. Okay. Are there any other core
6 messages that you remember?

7 A. There's a lot of core mess -- you know,
8 Omnicef suspension, remember, it doesn't have to be
9 refrigerated. When you're traveling it's a great
10 vacation. I mean, it's -- I mean, I just remember
11 Omnicef suspension doesn't have to be refrigerated
12 and it can be taken, again, you know, once a day.
13 And it tastes good.

14 Q. Besides, you know, conveying these very
15 short and sweet core messages to the doctors, what
16 else would you communicate to doctors when you were
17 on your visits with them?

18 A. Once again, it would depend on where
19 they were as far as what understanding they had on
20 the particular product and it would just be based
21 on what their needs were at that time.

22 Q. So you would have -- you would just use
23 your judgment in terms of what to speak to the
24 doctor about?

25 A. Well, I would go back -- I mean, I

1 way could you get somebody off your list was if
2 they were a very low decile or if they were
3 deceased.

4 Q. So if they were a low decile doctor how
5 would you -- what would be the process in getting
6 them off of your list?

7 A. Contact management, and when we would
8 meet as a team with our manager to go over our
9 routing, we could present it at that time after
10 that meeting.

11 Q. And then your manager would either
12 approve or disapprove?

13 A. And he would forward it on, yes --

14 Q. Okay.

15 A. -- to the appropriate people.

16 Q. Okay. So were you able to ever get
17 some of these low decile physicians off of your
18 list?

19 A. I can't -- I really can't remember. I
20 mean, I think so. I mean, I really can't remember,
21 to be honest with you.

22 Q. Okay. Were you also provided guidance
23 in terms of how many times you were supposed to
24 visit a particular physician?

25 A. Yes.

1 Q. And were you ever able to adjust that
2 number at all for any of your doctors?

3 A. You would have to get permission if you
4 didn't want to see the physician as many times as
5 they wanted you to see them because you were on a
6 rotation, and there had to be a really good reason
7 for you not wanting to go see that physician.

8 Q. What would be like a really good reason
9 for not wanting to see a doctor?

10 A. I can't think of one, to be honest with
11 you. I never did ask to not go to an office.

12 Q. Okay. So you never tried to adjust the
13 frequency at all for any of your doctors?

14 A. No. I did what they told me to.

15 Q. Do you remember approximately how many
16 doctors were on this list of people that you were
17 responsible for calling on?

18 A. I think it was -- it was over 300, but
19 there -- I mean, again, that was a complete list
20 with low decile doctors. So of course the top I'd
21 say 150 were the ones that you wanted -- that was
22 the frequency, those are the doctors you wanted to
23 see the most was the top 150.

24 Q. Okay. Did you see all -- so does that
25 mean that you did not see all 300 doctors?

1 there because that was, you know, a waste of time.

2 Q. Right. Okay. So I know that you
3 mentioned that sometimes depending on the season
4 you would adjust frequency of visits to particular
5 doctors. Is that something that was reflected in
6 the list that Abbott provided you?

7 A. Yes.

8 Q. So would that list also, you know,
9 adjust during that season saying that you have to
10 visit these doctors more often?

11 A. Yes.

12 Q. Okay. Do you know approximately at
13 what time you would usually make your last call of
14 the day?

15 A. Again, that would vary. A lot of times
16 they would not want -- I mean, again, I was very
17 respectful of my time and their time. I would say
18 my last call would be at least no later than 4:30,
19 4:45, no later than -- it would never be after 5
20 unless it was an urgent care because I would make
21 calls on Saturdays at urgent cares. Urgent cares
22 you can go into at any time, so --

23 Q. How often would you call on urgent
24 cares?

25 A. Every week everywhere I went, so that